

BOIES SCHILLER FLEXNER LLP
 RICHARD J. POCKER (NV Bar No. 3568)
 300 South Fourth Street, Suite 800
 Las Vegas, NV 89101
 Telephone: 702.382.7300
 Facsimile: 702.382.2755
 rpocker@bsflp.com

PAUL, WEISS, RIFKIND, WHARTON &
 GARRISON LLP
 WILLIAM A. ISAACSON (*pro hac vice*)
 KAREN DUNN (*pro hac vice*)
 2001 K Street, NW
 Washington, DC 20006
 Telephone: 202.223.7300
 Facsimile: 202.223.7420
 wisaacson@paulweiss.com
 kdunn@paulweiss.com

BOIES SCHILLER FLEXNER LLP
 BEKO O. REBLITZ-RICHARDSON (*pro hac vice*)
 SEAN P. RODRIGUEZ (*pro hac vice*)
 44 Montgomery Street, 41st Floor
 San Francisco, CA 94104
 Telephone: 415.293.6800
 Facsimile: 415.293.6899
 srodriguez@bsflp.com

MORGAN, LEWIS & BOCKIUS LLP
 BENJAMIN P. SMITH (*pro hac vice*)
 JOHN A. POLITO (*pro hac vice*)
 SHARON R. SMITH (*pro hac vice*)
 One Market, Spear Street Tower
 San Francisco, CA 94105
 Telephone: 415.442.1000
 Facsimile: 415.442.1001
 benjamin.smith@morganlewis.com
 john.polito@morganlewis.com
 sharon.smith@morganlewis.com

DORIAN DALEY (*pro hac vice*)
 DEBORAH K. MILLER (*pro hac vice*)
 JAMES C. MAROULIS (*pro hac vice*)
 ORACLE CORPORATION
 500 Oracle Parkway, M/S 5op7
 Redwood City, CA 94070
 Telephone: 650.506.4846
 Facsimile: 650.506.7114
 dorian.daley@oracle.com
 deborah.miller@oracle.com
 jim.maroulis@oracle.com

*Attorneys for Plaintiffs Oracle USA, Inc.,
 Oracle America, Inc., and Oracle
 International Corp.*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ORACLE USA, INC.; a Colorado corporation;
 ORACLE AMERICA, INC.; a Delaware
 corporation; and ORACLE INTERNATIONAL
 CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation;
 and SETH RAVIN, an individual,

Defendants.

Case No. 2:10-cv-0106-LRH-VCF

**ORACLE'S MEMORANDUM OF
 POINTS AND AUTHORITIES
 REGARDING RIMINI STREET,
 INC. AND SETH RAVIN'S
 MOTION TO SEAL PORTIONS OF
 ITS OPPOSITION TO ORACLE'S
 MOTION FOR ORDER TO SHOW
 CAUSE AND SUPPORTING
 DOCUMENTS (ECF NO. 1384)**

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to the Stipulated Protective Order governing confidentiality of documents entered by the Court on May 21, 2010 (ECF No. 55, “Protective Order”), Rules 5.2 and 26(c) of the Federal Rules of Civil Procedure, and Local Rule 10-5(b), Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle International Corporation (collectively “Oracle” or “Plaintiffs”) file this memorandum of points and authorities regarding Defendant Rimini Street, Inc.’s (“Rimini”) and Seth Ravin’s (collectively, “Rimini” or “Defendants”) Motion to Seal Portions of Rimini’s Opposition to Oracle’s Motion for Order to Show Cause (“Rimini’s Opposition”) and supporting documents (ECF No. 1384). Because there are compelling reasons to seal documents containing highly sensitive, non-public information regarding Oracle’s confidential business strategy, the Court should grant Rimini’s Motion to Seal at least as to those portions that contain Oracle confidential information. The grounds for sealing are detailed below.

I. LEGAL STANDARD

Federal Rule of Civil Procedure 26(c) provides broad discretion for a trial court to permit sealing of court documents for, *inter alia*, the protection of “a trade secret or other confidential research, development, or commercial information.” Fed. R. Civ. P. 26(c). The Ninth Circuit has held that “compelling reasons must be shown to seal judicial records attached to a dispositive motion” based on the presentation of “articulable facts.” *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1179, 1181 (9th Cir. 2006). Courts have discretion to determine what constitutes a “compelling reason,” and have found “sources of business information that might harm a litigant’s competitive standing” are sufficient to meet the “compelling reasons” standard. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016) (internal citations omitted).

II. ARGUMENT

Oracle respectfully requests that the Court seal portions of Exhibits A and B to the Declaration of Owen A. Astrachan (ECF No. 1382-1) (“Astrachan Declaration”), Exhibit C to the Declaration of Stephen A. Lanchak (ECF No. 1382-2) (“Lanchak Declaration”), Exhibit I to the

1 Declaration of Craig Mackereth (ECF No. 1382-3) (“Mackereth Declaration”), and Exhibit O to
2 the Declaration of Eric Vandeveld (ECF No. 1382-4) (“Vandeveld Declaration”). *See*
3 Declaration of John A. Polito Regarding Rimini’s Opposition to Oracle’s Motion for Order to
4 Show Cause (“Polito Decl.”).

5 Exhibit A to Astrachan Declaration comprises excerpted portions of the Rebuttal Expert
6 Report of Owen A. Astrachan. Portions of this exhibit (including at page ii; paragraphs 178-79,
7 183, 186-188, 190, 192, 195, 197-200, 202-06, 208, 214-16, 218, 269, 297-98, 328-29; headings
8 VII.2.3 and VII.2.4; and, footnotes 161 and 172) warrant sealing because they contain non-public,
9 technologically and commercially sensitive information relating to Oracle source code files.
10 Polito Decl., ¶ 5. The public disclosure of this information would create a significant risk of
11 competitive injury and particularized harm, and would prejudice Oracle. ECF No. 1367-2,
12 Maroulis Decl., ¶ 3. Oracle’s competitors and potential competitors could use such information
13 in competition with Oracle. *Id.* Oracle therefore requests that the Court seal these identified
14 portions in Exhibit A to the Astrachan Declaration.

15 Exhibit B to Astrachan Declaration comprises excerpted portions of the Supplemental
16 Expert Report of Owen A. Astrachan. Portions of Exhibit B (including paragraphs 10-11, 18-19,
17 21-22, 27-28, 37, 54, and footnote 15) warrant sealing because they contain non-public,
18 technologically and commercially sensitive information relating to Oracle source code files.
19 Polito Decl., ¶ 6. The public disclosure of this information would create a significant risk of
20 competitive injury and particularized harm, and would prejudice Oracle. ECF No. 1367-2,
21 Maroulis Decl., ¶ 3. Oracle’s competitors and potential competitors could use such information
22 in competition with Oracle. *Id.* Oracle therefore requests that the Court seal these identified
23 portions in Exhibit B to the Astrachan Declaration.

24 Exhibit C to the Lanchak Declaration comprises excerpted portions of the Supplemental
25 Expert Report of Stephen A. Lanchak. Portions of this exhibit (including paragraphs 51, 61, 82,
26 and footnotes 54, 75) warrant sealing because they contain non-public, technologically and
27 commercially sensitive information relating to Oracle source code files and license agreements.

1 Polito Decl., ¶ 7. The public disclosure of this information would create a significant risk of
2 competitive injury and particularized harm, and would prejudice Oracle. ECF No. 1367-2,
3 Maroulis Decl., ¶ 3. Oracle's competitors and potential competitors could use such information
4 in competition with Oracle. *Id.* Oracle therefore requests that the Court seal these identified
5 portions in Exhibit C to the Lanchak Declaration.

6 Exhibit I to the Mackereth Declaration comprises excerpts from a March 27, 2019 email
7 sent by Arijit Ray bearing the Bates number RSI007285466. Portions of Exhibit I warrant sealing
8 because it contains non-public, technologically and commercially sensitive information in the
9 form of excerpts of Oracle source code and confidential Oracle source code filenames. Polito
10 Decl., ¶ 8. The public disclosure of this information would create a significant risk of
11 competitive injury and particularized harm, and would prejudice Oracle. ECF No. 1367-2,
12 Maroulis Decl., ¶ 3. Oracle's competitors and potential competitors could use such information
13 in competition with Oracle. *Id.* Oracle therefore requests that the Court seal these identified
14 portions in Exhibit I to the Mackereth Declaration.

15 Exhibit O to the Vandeveld Declaration comprises excerpts from the June 19, 2020
16 deposition of Barbara Frederiksen-Cross. Portions of this exhibit (including at 161:16) warrant
17 sealing because it contains non-public, technologically and commercially sensitive information in
18 the form of confidential Oracle source code filenames. Polito Decl., ¶ 9. The public disclosure of
19 this information would create a significant risk of competitive injury and particularized harm, and
20 would prejudice Oracle. ECF No. 1367-2, Maroulis Decl., ¶ 3. Oracle's competitors and
21 potential competitors could use such information in competition with Oracle. *Id.* Oracle
22 therefore requests that the Court seal these identified portions in Exhibit O to the Vandeveld
23 Declaration.

24 Because there are compelling reasons to seal documents containing Oracle's confidential
25 information, the Court should grant Rimini's motion to seal those portions of the documents
26 referenced herein that describe, contain, or quote Oracle confidential information. Oracle takes
27 no position on regarding the confidentiality of Rimini's Opposition Brief or the remaining
28

exhibits filed by Rimini in support thereof.

III. CONCLUSION

For the foregoing reasons, Oracle respectfully requests that the Court grant leave to file under seal the materials discussed above.

DATED: August 14, 2020

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ John A. Polito
John A. Polito

Attorneys for Plaintiffs Oracle USA, Inc., Oracle
America, Inc., and Oracle International Corporation

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of August, 2020, I electronically transmitted the foregoing ORACLE'S MEMORANDUM OF POINTS AND AUTHORITIES REGARDING RIMINI'S MOTION TO SEAL PORTIONS OF ITS OPPOSITION TO ORACLE'S MOTION FOR ORDER TO SHOW CAUSE AND SUPPORTING DOCUMENTS to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel in this matter; all counsel being registered to receive Electronic Filing.

MORGAN, LEWIS & BOCKIUS LLP

DATED: August 14, 2020

By: /s/ John A. Polito
John A. Polito

Attorneys for Plaintiffs Oracle USA, Inc., Oracle
America, Inc., and Oracle International
Corporation